



Report to the Auburn City Council

Action Item

Agenda Item No. **1**

[Signature]
City Manager Approval

To: Mayor and City Council Members
From: Bernie Schroeder, Director of Public Works *BS*
By: Carie Huff, P.E., Associate Civil Engineer *CH*
Date: March 26, 2012
Subject: Palm Avenue Sidewalk and Bicycle Lane Project – Agreement with PCWA

The Issue

Shall the City enter into an agreement with Placer County Water Agency (PCWA) for the Palm Avenue Sidewalk and Bicycle Lane Project?

Conclusion and Recommendation

Staff recommends that the City Council, by **RESOLUTION**, authorize the Director of Public Works to execute an agreement with Placer County Water Agency (PCWA) for their portion of improvements for the Palm Avenue Sidewalk and Bicycle Lane Project in an amount not to exceed \$95,180.

Background

In October of 2011, City Council directed staff to proceed with the Palm Avenue Sidewalk and Bicycle Lane project with an eight foot wide shared sidewalk/Class I bike path along the entire length of the south side of Palm Avenue with a four foot wide landscape buffer between the roadway and the new shared sidewalk.

Since the footprint of the roadway is increasing some of the existing utilities are impacted. PCWA was notified of the modification of the Palm Avenue footprint and identified a raw water line that runs from the canal on the north side of Palm Avenue to a pipe within Palm Avenue on the east side of the project. This raw water spillway will be replaced due to its location and the age of the existing materials. The City's design engineer, Coastland Civil Engineering, Inc., provided a scope of work with associated costs that was submitted to PCWA for approval. Since the City of Auburn is already contracted with Coastland, PCWA prepared an agreement for reimbursement of the cost of design and construction for their portion of the work.

Alternatives Available to Council; Implications of Alternatives

1. Select the staff recommendations.
2. Do not proceed with staff recommendation.

Fiscal Impact

Bid and plan preparation and construction management are estimated to be \$19,532 with construction estimated to be \$75,648 for a total amount of \$95,180. The full amount of design and construction will be reimbursed by PCWA so there will be no cost to the City of Auburn.

Attachments:

PCWA Agreement
Resolution

CONSTRUCTION COOPERATION AND REIMBURSEMENT AGREEMENT

PLACER CITY WATER AGENCY – CITY OF AUBURN PALM AVENUE SPILL PIPE REPLACEMENT PROJECT

This agreement, by and between the PLACER CITY WATER AGENCY, hereinafter called “AGENCY”, and the CITY OF AUBURN, a political subdivision of the State of California, herein called “CITY”, shall be effective on the later of the dates executed by both the AGENCY and the CITY.

RECITALS

WHEREAS, the CITY is undertaking a roadway improvement project on Palm Avenue between State Highway 49 and Nevada Street, hereinafter referred to as “Project,” as shown on Exhibit “A” attached hereto and incorporated herein by reference and on a set of plans entitled “Project Plans for Palm Avenue Safe Routes to School Sidewalk & Bike Lane Project”, prepared by Coastland Civil Engineering, 11810 Kemper Road Auburn, CA 95603; and

WHEREAS, the Project will require the relocation of AGENCY facilities and it has been determined that the CITY has prior rights and that the AGENCY shall bear the responsibility of the relocation; and

WHEREAS, the CITY and the AGENCY agree that it would be advantageous to relocate the AGENCY’s facilities concurrently with the Project; and

WHEREAS, the Project will require the replacement and relocation of approximately 150 linear feet of 8-inch pipe and 450 LF of 6” pipe with 600 LF of new 8-inch pipe and associated appurtenances, which will be described more fully in the plans to be prepared by the CITY, and which are hereinafter referred to as the "Facilities"; and

WHEREAS, the CITY intends to engage a qualified contractor and has agreed to bear all

expense to furnish and install the Facilities as required and shall be reimbursed for construction of such Facilities as described in Sections 3, 7, 8, and 9 below and Exhibit B attached hereto; and

WHEREAS, the AGENCY is willing to accept the Facilities in accordance with the provisions of this Agreement, the Agency's Personnel and Administrative Manual, Improvement Standards, Technical Provisions and Standard Drawings.

AGREEMENT

NOW, THEREFORE, FOR AND IN CONSIDERATION OF THE MUTUAL COVENANTS HEREIN PROVIDED, it is agreed as follows:

1. The CITY will expand the scope of the Project to include the relocation of the AGENCY Facilities. The CITY will incorporate the appropriate plans and technical specifications for the AGENCY Facilities into the Project plans and specifications in a form mutually acceptable to the CITY and the AGENCY.
2. The CITY will prepare and provide the construction documents (plans and specifications) to the AGENCY such that the AGENCY can use these documents as a basis for reviewing and approving the material and appurtenances required for the AGENCY Facilities before the CITY issues the construction documents for the Project for bids. Upon completion of the Project, the CITY will provide as-built plans to the AGENCY.
3. The parties agree and acknowledge that the CITY shall competitively bid and award the contract to the lowest responsible bidder for the entire Project. "Responsible bidder" includes the requirement that the selected contractor, or its subcontractor performing the AGENCY work, meet the AGENCY's and CITY's minimum requirements for installation of water facilities, including possessing and maintaining a California State Class A or C-34 Contractor's License. CITY shall be the lead agency for the Project and will manage the construction contract and be responsible for all payments to the contractor. The AGENCY will reimburse the CITY for costs paid for construction to relocate the

AGENCY Facilities in accordance with this Agreement at a total cost not to exceed \$75,648. The procedure for such reimbursement shall be as described in paragraph 9 below. The AGENCY will also reimburse the CITY a portion of the costs of preparing the bid documents to incorporate the water line relocation, in accordance with paragraph 7 below. The AGENCY will also reimburse the CITY for a portion of contract administration costs, in accordance with paragraph 8 below.

4. The CITY shall provide contract administration, inspection and construction management for the Project, and shall, at its own expense, pay any charges for any consultant it has retained or may retain for any design or testing services in connection with the Project. The AGENCY shall, at its own expense, provide its own inspection and testing services for the relocation of the AGENCY's Facilities as part of the Project.

5. The CITY and the AGENCY shall mutually agree on a method to coordinate construction administration, construction engineering, construction surveying, shop drawing review, communications and meetings, traffic control, scheduling, inspection and testing of the work that pertain to construction of the AGENCY Facilities.

6. During construction of the AGENCY Facilities, the AGENCY shall determine whether construction of the AGENCY Facilities is satisfactorily performed in accordance with the construction contract and AGENCY requirements and shall notify the CITY in writing of approval and acceptance of the completed AGENCY Facilities. AGENCY shall coordinate with the CITY to bring the completed AGENCY Facilities into service. After AGENCY acceptance of the completed AGENCY Facilities, the AGENCY shall own and be responsible for the operation and maintenance of the completed AGENCY Facilities pursuant to any encroachment permits obtained from the CITY at the time of construction of the Project. Such acceptance of the completed work shall not relieve the contractor of any liability or modify the contractor's guarantee.

7. In full reimbursement of its share of the CITY's costs of preparing the bid documents

and issuing the project for bids, AGENCY shall pay the CITY:

The actual costs paid by the CITY to its design consultant for the incorporation of the relocation of the AGENCY Facilities into the project plans and specifications, plus a markup of five percent (5%) on such costs, at a total cost not to exceed \$15,750. A proposal of scope and cost for these services shall be received and approved by the AGENCY prior to commencing work.

Payment shall be made by the AGENCY within thirty (30) days after receipt of an invoice therefor from the CITY.

8. In full reimbursement of its share of the CITY's costs of providing contract administration for the project, AGENCY shall pay the CITY a markup of five percent (5%) of those amounts which, under paragraph 9 herein below, AGENCY is responsible to pay the CITY as reimbursement for costs paid to the CITY's contractor to relocate the AGENCY Facilities.

9. The AGENCY shall reimburse the CITY for costs paid to the CITY's contractor to relocate the AGENCY Facilities in accordance with the following procedure:

- a. Prior to the CITY's issuance of the construction documents for the Project for bids, the AGENCY and the CITY shall agree on the construction line items to be included in the bid schedule for the AGENCY Facilities. The CITY shall require the contractor to submit with each monthly payment application an itemization indicating progress on these unit price line items. Upon payment to the Contractor for any of the AGENCY Facilities line items, CITY may submit an invoice to AGENCY for reimbursement hereunder of the amounts paid. AGENCY shall pay said invoice within thirty (30) days of receipt.
- b. The AGENCY shall be responsible to reimburse CITY for all payments to the contractor for approved change orders for extra work performed on the AGENCY Facilities. CITY will be responsible for all other Project-related change orders,

delays, and extra work incurred by the contractor. The AGENCY and CITY will jointly work to negotiate change order requests and claims by the contractor to resolve any claims directly related to the AGENCY Facilities in a timely manner, provided that neither the CITY nor the AGENCY shall agree to the resolution of any such change order request or claim without the other's approval. In the event agreement cannot be reached related to active ongoing work within one (1) working day of presentation of a request for change order, or claim, the CITY shall have the right to direct the contractor to proceed on a force account basis.

10. The AGENCY will not unnecessarily delay progress of work or hold up final contract acceptance of the Project during the period of closeout. The AGENCY shall bear no responsibility for contractor or CITY caused delays on work other than those directly related to only the AGENCY Facilities. The AGENCY shall have no obligation under this Agreement to make any direct payment to the CITY's contractor or to any subcontractor (of any tier) or material supplier or equipment supplier for materials, equipment or labor supplied on the Project.

11. Performance by either party under this Agreement shall not be deemed to be in default where delays or default are due to Force Majeure when a party gives notice, in writing, with details of particulars to the other party as soon as possible. Force Majeure as used in this contract shall mean acts of nature, wars, insurrections, riots, epidemics, major landslides, earthquakes, fires, floods, and civil disturbances, which are not within the control for the party claiming suspension, which by the exercise of due diligence, such party may not have been able to avoid or overcome.

12. Except as otherwise provided by Section 13, costs arising from claims or lawsuits for personal injury or property damage which are alleged to have resulted from construction of the AGENCY Facilities only, including the payment of damages pursuant to a final judgment in favor of a claimant, shall be the AGENCY's responsibility. In the event of disagreement concerning the

responsibility of any claim resolution costs related to the affected items of work identified in Exhibit A, the parties each expressly reserve the right to seek a judicial determination of the responsibility of each party with respect to any claim or lawsuit arising out of their performance under this agreement.

13. INDEMNITY

- a. AGENCY agrees to save harmless and indemnify CITY from any liability, claim or demand which may be made by any person resulting from the negligence of AGENCY in the performance of its responsibilities under this Agreement, and further agrees, at its own cost and expense, to defend any action which may be brought against CITY resulting from such negligence of AGENCY, and further agrees to pay or satisfy any judgment which may result from such action. The foregoing provisions shall not be applicable to claims or actions that arise from the negligence of CITY in its performance of the terms of this Agreement.
- b. The CITY agrees to save harmless and indemnify AGENCY from any liability, claim or demand which may be made by any person resulting from the negligence of CITY in the performance of its responsibilities under this Agreement, and further agrees, at its own costs and expense, to defend any action which may be brought against AGENCY resulting from such negligence of CITY, and further agrees to pay or satisfy any judgment which may result from such action. The foregoing provisions shall not be applicable to claims or actions that arise from the negligence of AGENCY in its performance of the terms of this Agreement.

14. INSURANCE: The CITY's Contractor shall carry Automobile Liability insurance in the amount of at least \$1,000,000, and Commercial General Liability in the amount of at least \$1,000,000 per occurrence and \$2,000,000 aggregate with a maximum \$5,000 deductible, which insurance shall be primary and underlying to the AGENCY's insurance and Commercial General

Liability and shall specifically name the AGENCY as an additional insured and certificate holder. Before work is commenced, the CITY's Contractor shall furnish the AGENCY with a certificate(s) of insurance and Additional Insured Endorsement (ISO CG 2010) or equivalent as satisfactory proof that the CITY's Contractor carries the insurance required by the Agreement and Worker's Compensation Insurance in compliance with the laws of the State of California. The CITY's Contractor's insurance shall be primary and any insurance or self-insurance maintained by the AGENCY shall be excess and not contribute to it. The insurance carriers will have a Best Rating of no less than A:-VII or equivalent or as otherwise approved by the AGENCY.

15. MAINTENANCE GUARANTEE: After completion of work and before acceptance by the AGENCY, a Maintenance Bond in the amount of 50% of the estimated cost of the Facilities shall be provided by the CITY or the CITY's Contractor. The estimated cost of the Facilities is \$60,000. A cash deposit in an amount adequate to cover such guarantee may be provided. Such maintenance guarantee shall remain good for a period of one (1) year after acceptance by the AGENCY of the Facilities.

16. WARRANTIES AND REPAIRS: The CITY hereby agrees that the AGENCY may enforce all warranties provided by CITY's contractor with respect to AGENCY's Facilities, and the CITY shall require its contractor to provide a warranty against any defects in materials or workmanship in the installed AGENCY Facilities for a period of one year following final acceptance of the Project. This Agreement shall cover defects which shall be in existence during such one year period but which shall not become apparent until thereafter. As to any equipment which bears a guarantee or warranty in writing or by law for a period longer than one year, the CITY hereby stipulates and agrees that such guarantee shall inure to the benefit of the AGENCY for such longer period.

17. This Agreement shall terminate after the AGENCY Facilities have been completed and accepted by the AGENCY and final payment has been made to the CITY. However, such termination

shall not relieve the contractor of any liability or modify contractor's guarantee or prohibit either the CITY or the AGENCY from enforcing any rights against, or seeking damages from the contractor.

18. This Agreement shall not inure to the benefit of or create any rights in any third party not a signatory hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the later of the dates executed by both the AGENCY and the CITY below.

"AGENCY"

PLACER COUNTY WATER AGENCY

By _____

CHAIR, BOARD OF DIRECTORS

Date: _____

ATTEST

Clerk to the Board

"CITY"

CITY OF AUBURN

A Political Subdivision of

the State of California

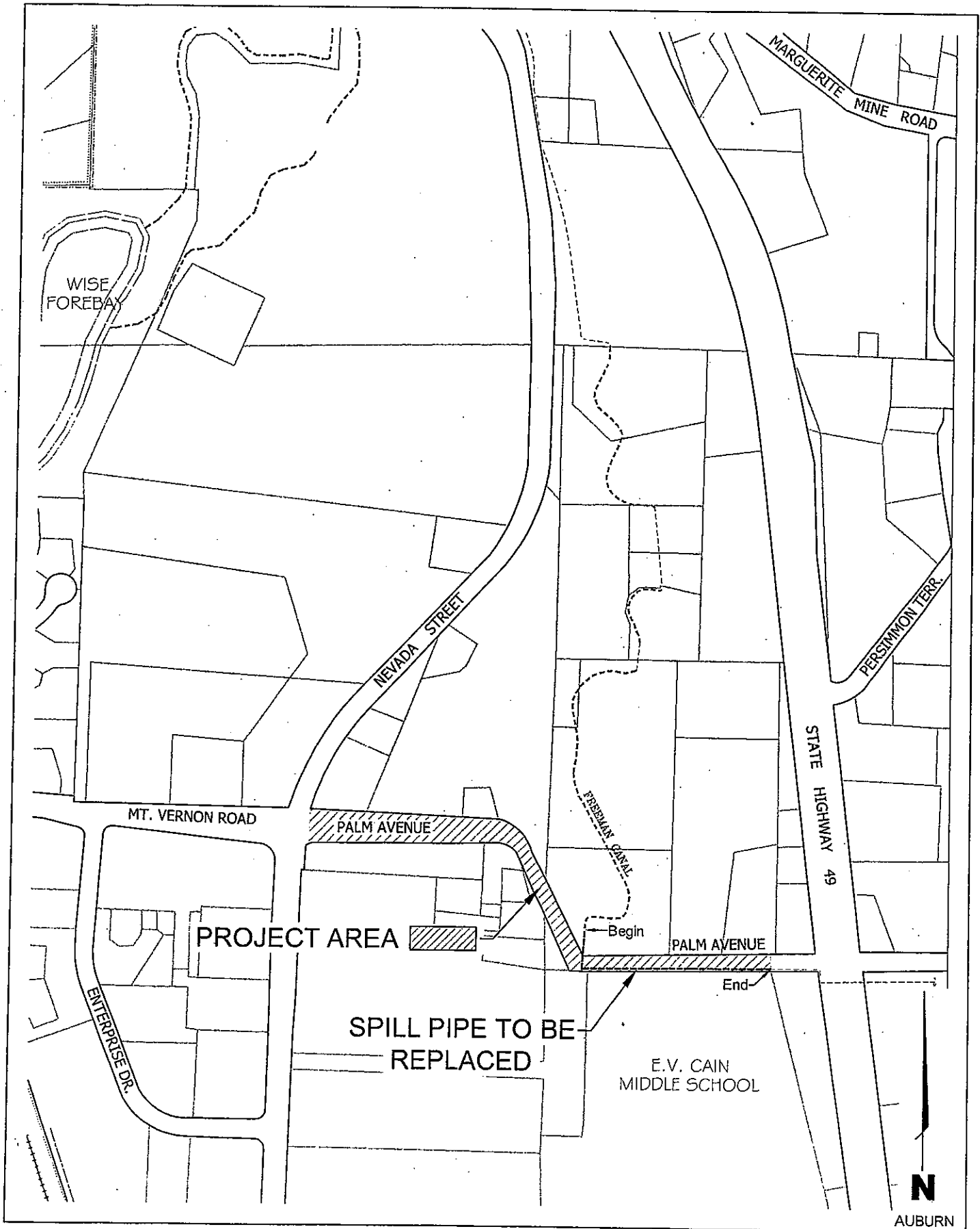
Signature

Print Name

Title _____

Date: _____

EXHIBIT "A"



PALM AVENUE SPILL PIPE REPLACEMENT PROJECT

EXHIBIT B

PLACER COUNTY WATER AGENCY - CITY OF AUBURN Palm Avenue Spill Pipe Replacement Project

COST ESTIMATE

Item No.	Item Description	Unit	Qty	Unit Cost	Total
1	Replace 600 LF of 8" Pipe	LF	600	\$ 100	\$ 60,000
2	Construction Staking	LS	1	\$ 3,040	\$ 3,040
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
16					
17					
18					
19					
20					
	Subtotal				\$ 63,040
	Contingency			20%	\$ 12,608
A	Total Estimated Direct Costs				\$ 75,648
	Bid & Plan Preparation + 5% to City				\$ 15,750
	City Construction Management			5% of A	\$ 3,782
B	TOTAL ESTIMATED PROJECT COSTS				\$ 95,180
	TOTAL REIMBURSEMENT NOT TO EXCEED				\$ 95,180

RESOLUTION NO. 12-

RESOLUTION AUTHORIZING AN AGREEMENT WITH PLACER COUNTY WATER
AGENCY (PCWA) FOR THE PALM AVENUE SIDEWALK AND BICYCLE LANE
PROJECT

THE CITY COUNCIL OF THE CITY OF AUBURN DOES HEREBY RESOLVE:

That the City Council of the City of Auburn does hereby authorize the Director
of Public Works to execute an agreement with Placer County Water Agency
(PCWA) for their portion of improvements for the Palm Avenue Sidewalk and
Bicycle Lane Project in an amount not to exceed \$95,180.

A true and correct copy of the Agreement is attached hereto as Exhibit "A."

DATED: March 26, 2012

Keith Nesbitt, Mayor

ATTEST:

Joseph G. R. Labrie, City Clerk

I, Joseph G. R. Labrie, City Clerk of the City of Auburn, hereby certify
that the foregoing resolution was duly passed at a regular session meeting of
the City Council of the City of Auburn held on the 26th day of March 2012 by
the following vote on roll call:

Ayes:

Noes:

Absent:

Joseph G. R. Labrie, City Clerk